

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

STATE OF VERMONT,

Plaintiff,

v.

Civil Action No. 2:21-cv-00260-wks

EXXON MOBIL CORPORATION,
EXXONMOBIL OIL CORPORATION,
ROYAL DUTCH SHELL PLC, SHELL OIL
COMPANY, SHELL OIL PRODUCTS
COMPANY LLC, MOTIVA ENTERPRISES
LLC, SUNOCO LP, SUNOCO LLC, ETC
SUNOCO HOLDINGS LLC, ENERGY
TRANSFER (R&M) LLC, ENERGY
TRANSFER LP, and CITGO PETROLEUM
CORPORATION,

Defendants.

**STIPULATION AND ORDER
TO STAY DEADLINES
AND FOR A COORDINATED BRIEFING SCHEDULE**

Plaintiff, the State of Vermont, and Defendants Exxon Mobil Corporation, ExxonMobil Oil Corporation, Royal Dutch Shell plc, Shell Oil Company, Shell Oil Products Company LLC, Motiva Enterprises LLC, Sunoco LP, Sunoco LLC, ETC Sunoco Holdings LLC, Energy Transfer (R&M) LLC, Energy Transfer LP, and CITGO Petroleum Corporation (together, “Defendants”) (Plaintiff and Defendants collectively, the “Parties”) hereby stipulate and agree to, and request the Court to enter (i) a stay of all case deadlines with the exception of those related to Plaintiff’s Motion to Remand; and (ii) the Parties’ proposed briefing schedule on the Motion to Remand.

WHEREAS, on September 14, 2021, Plaintiff filed a Complaint against the above-named Defendants in the Chittenden Civil Division of the Superior Court of the State of Vermont, Case No. 21-CV-02778;

WHEREAS, on October 22, 2021, defendants Exxon Mobil Corporation and ExxonMobil Oil Corporation, with the consent of all properly named and served (or purportedly served) defendants, timely removed this action from the Superior Court of the State of Vermont to this Court, *see* Notice of Removal, Doc. 1;

WHEREAS, Plaintiff intends to file a Motion to Remand, which Defendants intend to oppose;

WHEREAS, Defendants intend to file a Motion to Stay, which Plaintiff intends to oppose;

WHEREAS, Defendants also intend to file threshold motions, including Motions to Dismiss pursuant to Fed. R. Civ. P. 12, and certain Defendants object to the exercise of personal jurisdiction, and intend to file Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(2), 12(b)(4), and/or 12(b)(5) (collectively “Motions to Dismiss”);

WHEREAS, absent the relief requested, the current deadline for Defendants to file Motions to Dismiss would be as early as Friday, October 29, 2021, *see* Fed. R. Civ. P. 81(c)(2)(C), which Defendants submit would not afford them sufficient time to brief the Motions to Dismiss;

WHEREAS, the Parties recognize that the Court may not be able to so order the agreed upon stay of the current deadline to respond to the Complaint and agreed upon procedure for briefing of the Motion to Remand, and the Parties therefore agree to abide by the terms of this jointly proposed schedule and briefing procedure irrespective of whether the Court is able to act

before October 29, 2021;

WHEREAS, the Parties agree it would be more efficient for the Parties and the Court for the Court to stay Defendants' responsive deadline until after the Court decides Plaintiff's Motion to Remand;

WHEREAS, the Parties have conferred and agree that it would serve the interests of judicial efficiency and save time and resources to continue any case management conference and related deadlines until a time following the Court's decision on Plaintiff's Motion to Remand, and to enter an order as agreed upon herein concerning the briefing of that Motion to Remand;

WHEREAS, this stipulation does not operate as an admission of any factual allegation or legal conclusion and is submitted subject to and without waiver of any right, defense, affirmative defense, claim, or objection, including lack of subject matter jurisdiction, or lack of personal jurisdiction, insufficient process, or insufficient service of process;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED THAT:

1. Plaintiff's Motion to Remand shall be due by November 22, 2021. The November 22, 2021 deadline does not apply to the memorandum of law in support of the Motion to Remand or any exhibits or other supporting materials.

2. Absent any other order of this Court on procedure or timing, the Parties agree to brief Plaintiff's Motion to Remand on the following schedule and with the following page limits. Plaintiff will file its opening memorandum of law in support of the Motion to Remand on or before December 17, 2021, not to exceed 50 pages. Defendants will file a consolidated memorandum in opposition which will be due on February 18, 2022, not to exceed 50 pages.

Plaintiff's reply memorandum will be due on March 18, 2022, not to exceed 30 pages. These page limits are exclusive of exhibits and other supporting materials. The preceding schedule and page limits are subject to revision, and, if needed, the parties/a party will file a supplemental schedule or motion for the Court's approval.

3. Defendants do not, by agreeing to the procedures herein to have the Court consider and adjudicate the Motion to Remand prior to any further proceedings, waive their objections to personal jurisdiction, insufficient process, or insufficient service of process. Plaintiff agrees that it will not assert in federal or state court that there has been any waiver of any defense based on an assertion of lack of personal jurisdiction, insufficient process, or insufficient service of process because of the Parties' agreement to have the Court consider and adjudicate the Motion to Remand prior to the filing of Motions to Dismiss.

4. The deadline to move to dismiss, answer, or otherwise respond to the Complaint shall be stayed pending further order of the Court.

5. The deadlines to serve Rule 26(a) Initial Disclosures, confer as required under Rule 26(f), and file a discovery schedule under Local Rule 26(a), and the issuance of a Rule 16(b) Scheduling Order and the Early Neutral Evaluation process under Local Rule 16.1, shall be stayed until further order of the Court.

SO ORDERED.

DATED: October 27, 2021

/s/ William K. Sessions III
Hon. William K. Sessions III
United States District Judge

DATED: October 25, 2021

Respectfully Submitted,

/s/ Justin E. Kolber

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